

STATE OF CALIFORNIA  
**DEPARTMENT OF INSURANCE**  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, California 95814

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**January 1, 2008 Workers' Compensation Pure Premium Rates**

**File No. REG-2007-00053**

**Notice Date: September 21, 2007**

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Classification of Risks; Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective January 1, 2008.

**NOTICE AND SUBJECT OF PUBLIC HEARING**

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider (1) the approval of advisory pure premium rates developed by the designated rating organization, (2) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, (3) amendments to the Miscellaneous Regulations for the Recording and Reporting of Data, and (4) amendments to the California Workers' Compensation Experience Rating Plan—1995. The hearing will be held in response to a filing, submitted on September 20, 2007, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

**HEARING DATE AND LOCATION**

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**October 23, 2007 – 9:30 AM**  
**California Department of Insurance**  
**22nd Floor Hearing Room**  
**45 Fremont Street**  
**San Francisco, California**

## **AUTHORITY AND REFERENCE**

### Uniform Plans and Regulations

The workers' compensation classification of risks and statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

### Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

### Advisory Rating Plans

Pursuant to Insurance Code Sections 11750.3(a) and 11750.3(c), a licensed rating organization may promulgate advisory plans in connection with pure premium rates and the administration of classification and rating systems and present them to the Insurance Commissioner for review.

## **INFORMATIVE DIGEST**

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and California Workers' Compensation Experience Rating Plan—1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995 is mandatory. With regard to the standard classification system developed by the designated rating organization and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with

the California Workers' Compensation Uniform Statistical Reporting Plan—1995 or the Standard Classification System developed by the WCIRB and approved by the Insurance Commissioner.

The pure premium rates recommended by the WCIRB to be effective January 1, 2008, as well as amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan—1995, are detailed in the WCIRB's filing and summarized below.

## **APPROVE PURE PREMIUM RATES**

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008. The proposed advisory pure premium rates are, on average, 4.2% greater than the July 1, 2007 advisory pure premium rates approved by the Insurance Commissioner.

The proposed pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2008 are based on (a) insurer losses incurred during 2006 and prior accident years valued as of June 30, 2007; (b) insurer loss adjustment expenses for 2006 and prior years; (c) the experience rating off-balance correction factor, and (d) classification payroll and loss experience reported for policies issued during 2004 and prior years.

## **AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN—1995**

The WCIRB recommends that the following revision to the California Workers' Compensation Uniform Statistical Reporting Plan—1995 become effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008:

- Amend Part 1, *General Provisions*, Section II, *General Definitions*, to add definitions for the terms “audit,” “physical audit” and “voluntary audit,” for clarity.
- Amend Part 3, *Standard Classification System*, Section II, *Classification Terminology*, Rule 11, *Interchange of Labor*, for clarity.
- Amend Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 3, *Multiple Enterprises*, to add examples and reorganize for clarity.

- Amend Part 3, *Standard Classification System*, Section IV, *Special Industry Classification Procedures*, Rule 2, *Construction or Erection Work*, Subrule a, *Determination of Dual Wage Construction or Erection Classification*, to specify that the assignment of a high wage construction classification is contingent upon the availability of records necessary to reconcile the number of hours worked against actual time cards or time sheets and to add examples for clarity.
- Amend Part 3, *Standard Classification System*, Section VI, *Administration of Classification System*, Rule 4, *Audit of Payroll*, to clarify that a physical audit requires the review of an employee's original payroll records, electronic or hard copy, and to clarify the definition of voluntary audit.
- Amend the minimum and maximum annual payroll for executive officers, partners, and sole proprietors to increase the maximum from \$89,700 to \$92,300 and the minimum from \$33,800 to \$35,100, as well as to other payroll limitations relevant to specific classifications (e.g., athletic teams, entertainment classifications, taxicabs, etc.), to reflect wage inflation since the last time these amounts were amended (January 1, 2007).
- Amend the footnote to these classifications to clarify the classifications applicable to certain trenching operations.

*Excavation – N.O.C.*, Classifications 6218(1)/6220(1)

*Grading Land – N.O.C.*, Classifications 6218(2)/6220(2)

- Amend the dual wage classifications noted below to increase the wage threshold by \$1.00 to reflect wage inflation since the last time the thresholds were amended.

*Automatic Sprinkler Installation*, Classifications 5185/5186

*Carpentry – private residences*, Classifications 5645(1)/5697(1)

*Carpentry – other*, Classifications 5403/5432

*Concrete or Cement Work*, Classifications 5201/5205

*Electrical Wiring*, Classifications 5190/5140

*Gas/Water Mains*, Classifications 6315/6316

*Glaziers*, Classifications 5467/5470

*Masonry*, Classifications 5027/5028

*Painting*, Classifications 5474/5482

*Plastering or Stucco Work*, Classifications 5484/5485

*Plumbing*, Classifications 5183(1)/5187(1)

*Refrigeration Equipment*, Classifications 5183(2)/5187(2)

*Roofing*, Classifications 5552/5553

*Sheet Metal Work*, Classifications 5538/5542

*Sewer Construction*, Classifications 6307/6308

*Wallboard Application*, Classifications 5446/5447

*Steel Framing – light gauge – residential*, Classifications 5630/5631

*Steel Framing – light gauge – commercial*, Classifications 5632/5633

- Eliminate Classification 4360, *Motion Pictures – development of negatives, printing and all subsequent operation except the marketing of the product through film exchanges at locations other than the studio*, to reflect changes proposed elsewhere in this section.
- Amend Classification 4362, *Motion Pictures – film exchanges*, to include the operations of motion picture film developers and processors and to remove the inclusion of Clerical Office Employees.
- Amend Classification 9610, *Motion Pictures – production*, to include all operations within the motion picture production industry.
- Amend the USRP for clarity and consistency.

#### **AMEND MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA**

The WCIRB recommends the following revisions to the Miscellaneous Regulations for the Recording and Reporting of Data to become effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008:

- Amend for clarity and consistency.

#### **AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995**

The WCIRB recommends the following revisions to the California Workers' Compensation Experience Rating Plan—1995 to become effective January 1, 2008 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2008.

- Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers' Compensation Insurance*, to adjust the eligibility requirement from \$13,728 to \$14,900 to reflect wage inflation since the threshold was last amended and the proposed January 1, 2008 pure premium rate change.
- Amend for clarity and consistency.
- Amend the expected loss rates and D-ratios shown in Table II, *Expected Loss Rates and Full Coverage D-Ratios*, to reflect the most current data available.
- Amend the average death value to reflect the most current data available.

## **WCIRB ADVISORY PLANS**

### **CALIFORNIA LARGE RISK DEDUCTIBLE PLAN**

The WCIRB has adopted the following revisions to the California Large Risk Deductible Plan. The amendments will become effective January 1, 2008:

Amendments to the advisory California Large Risk Deductible Plan were adopted by the WCIRB to be effective January 1, 2008 to reflect updated rating values, updates to referenced legislation and for editorial clarity. This WCIRB advisory plan is being submitted in its entirety to the California Department of Insurance for review.

### **CALIFORNIA RETROSPECTIVE RATING PLAN**

The WCIRB has adopted the following revisions to the California Retrospective Rating Plan. The amendments will become effective January 1, 2008:

Amendments to the advisory California Retrospective Rating Plan were adopted by the WCIRB to be effective January 1, 2008 to reflect updated rating values, updates to referenced legislation and for editorial clarity. This WCIRB advisory plan is being submitted in its entirety to the California Department of Insurance for review.

### **CALIFORNIA SMALL DEDUCTIBLE PLAN**

The WCIRB has adopted the following revisions to the California Small Deductible Plan. The amendments will become effective January 1, 2008:

Amendments to the advisory California Small Deductible Plan were adopted by the WCIRB to be effective January 1, 2008 to reflect updated rating values, updates to referenced legislation and for editorial clarity. This WCIRB advisory plan is being submitted in its entirety to the California Department of Insurance for review.

## **COSTS OR SAVINGS RESULTING FROM THE REGULATIONS**

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in higher costs.

## **COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Insurance Commissioner has determined that there will not be a cost increase or savings and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

## **IMPACT ON HOUSING COSTS**

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

## **IMPACT ON SMALL BUSINESSES**

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on small businesses.

## **COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

## **FEDERAL FUNDING TO THE STATE**

The matters proposed herein will not affect any federal funding.

## **NON-DISCRETIONARY COSTS OR SAVINGS**

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

## **COST OR SAVINGS TO STATE AGENCIES**

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

## **REIMBURSABLE COSTS**

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

## **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## **ACCESS TO HEARING ROOMS**

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

## **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance  
Attn: Christopher A. Citko  
Senior Staff Counsel  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 492-3187

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

## **DEADLINE FOR WRITTEN COMMENTS**

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 5:00 PM on October 30, 2007.



## **TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE**

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at [www.wcirbonline.org/filings](http://www.wcirbonline.org/filings).

## **ACCESS TO RULE MAKING FILE, CONTACT**

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 300 Capitol Mall, 17<sup>th</sup> Floor, Sacramento, California 95814, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

## **AUTOMATIC MAILING**

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

## **ADOPTION OF REGULATIONS**

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

Dated: September 21, 2007

STEVE POIZNER  
Insurance Commissioner

By \_\_\_\_\_/s/  
Christopher A. Citko

Senior Staff Counsel